

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 1062 of 2005.

Reserved on: 24.08.2007.

Decided on: 10.10.2007.

Gian Chand and Others. ... Petitioners.

Versus

State of H.P. & Others. ... Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?¹ No.

For the Petitioners: Mr. Ajay Sharma, Advocate.

**For Respondents No.1 to 4: Mr. M.S. Chandel, Advocate General
with Mr. M.A. Khan and Ms.
Meenakshi Sharma, Deputy
Advocate Generals.**

Rajiv Sharma, Judge:

A challenge has been laid by the petitioners to the orders passed by the Consolidation Officer on 4.9.2002, order dated 28.3.2003 passed by the Settlement Officer, order dated 20.4.2004 passed by the Additional Director, Consolidation of Holdings as well as order dated 21.4.2005 passed by the Director, Consolidation of Holdings.

The brief facts necessary for the adjudication of this petition are that the Director, Consolidation of Holdings had remanded the matter in case No.310/97 to the Consolidation Officer on 7.5.2002 to the effect

Whether reporters of local papers may be allowed to see the judgment? No.

that the area of Khasra No.2015 was wrongly worked out as 15 marlas and in fact it should have been 5 marlas. The Consolidation Officer decided the matter in favour of respondent No.5. The petitioners filed an appeal before the Settlement Officer and the same was rejected by him on 28.3.2003. The petitioners preferred an appeal before the Additional Director, Consolidation of Holdings under Section 30(3) of H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. The appeal was dismissed by the Additional Director, Consolidation of Holdings on 20.4.2004. The petitioners filed a revision petition under Section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. The revision was dismissed by the Director, Consolidation of Holdings on 21.4.2005.

Mr. Ajay Sharma has strenuously argued that the orders passed by the Consolidation Officer, Settlement Officer and Additional Director, Consolidation of Holdings as well as by the Director, Consolidation of Holdings are not sustainable in the eyes of law since they have failed to take into consideration the true import of the sale deed dated 26.2.1988 on the basis of which the petitioners has sold the land to the predecessor-in-interest of the respondent No.5. The learned Advocate General appearing on behalf of respondents No.1 to 4 and Mr. Virbahadur Verma appearing on behalf of respondent No.5 have supported the orders passed by the authorities.

I have heard the learned counsel for the parties and perused the record.

The Consolidation Officer after the matter was remanded to him, held in his order dated 4.9.2002 that the respondent No.5 had purchased from the petitioners the land described as Khata No.111 min, Khasra Nos.2014-2015-1681, kites 3, tadadi 1 kanal 15 marlas, ½ share thereof measuring 0-17 marlas and Khasra No.2015 was entered in the field

book of the year 1910-11, but in the jamabandi for the year 1966-67, the area shown is 15 marlas. This aspect could be easily verified according to the Consolidation Officer by perusing the field book. He accordingly directed that the area of Khasra No.2015 as per field book No.1911-12 be entered as 0-15 instead of 0-5 marlas and in the revenue record Khasra Nos.2014 and 2015 had been recorded together and their area was 1-07 and jadid No. became 2231, the area of which was to be recorded as 0-17 instead of 1-07.

The appeal preferred by the petitioners against the order of the Consolidation Officer was rejected on the ground of limitation by the Settlement Officer on 28.3.2003, but the Additional Director, Consolidation of Holdings had heard the appeal on merits. He had upheld the order passed by the Consolidation Officer by a speaking order. In the revision preferred before the Director, Consolidation of Holdings primarily it was contended that the predecessor-in-interest of the petitioners had executed a sale deed on 26.7.88 in favour of respondent No.5 regarding land comprised in Khasra Nos. 2014, 2015 and 1681 to the extent of 0 kanal 17 marlas, but during the consolidation proceedings land measuring 1 kanal 17 marlas has been allotted to respondent No.5 wrongly. It was also contended before the Director, Consolidation of Holdings that as a matter of fact the area of Khasra No.2015 was 0-5 marlas as shown in the revenue record which has been wrongly increased to 15 marlas and consequently the area of the land of the petitioners has been reduced after allotment of 1 kanal 7 marlas to the respondent No.5.

The position which emerges from the pre-consolidation and post-consolidation record as taken note of by the Director, Consolidation of Holdings is that $\frac{1}{2}$ of the land from Khasra No.2014 (12 marlas), 2015 (15 marlas) and 1681 (8 marlas) was sold by the petitioners to the

predecessor-in-interest of respondent No.5 vide sale deed registered on 26.2.88 and during the consolidation, Khasra Nos.1681 (8 marlas) and 1682 (14 marlas) had been merged into new Khasra No.1490 (1 kanal 2 marlas) and allotted to the petitioners and one Shri Mehar Singh, predecessor-in-interest of Shri Purshotam Lal and Smt. Kanta Devi. Similarly, Khasra Nos. 2014 (12 marlas) and 2015 (15 marlas) had been merged into Khasra No.2231 (1 kanal 7 marlas) and allotted to respondent No.5. The respondent as per the karwahi register had demanded 12 kanal 18 marlas sada (7 kanals 8 marlas standard) against which he was allotted 12 kanals 3 marlas sada (7 kanals 3 marlas standard), i.e. 15 marlas sada, (5 marlas standard) less. Accordingly, the total deficiency in case of Khasra No.2015 came to 0-10 marlas sada (8 marlas standard). This deficiency was made good by the Consolidation Officer by allotting Khasra No.1490 to respondent No.5. The deficiency of the area which has occurred due to wrong recording of the areas in the revenue record has been made good by the Consolidation Officer by allotting Khasra No.1490 to respondent No.5. The petitioners have been allotted 25 kanals 19 marlas against their demand of 26 kanals 6 marlas. The Financial Commissioner while remanding the matter back to the Consolidation Officer in his order dated 7.5.2002 has made specific reference to Khasra No.2015. While correcting the area of Khasra No.2015, the deficiency came to 0-10 marlas sada (8 marlas standard) which has been made good by the Consolidation Officer.

The orders passed by the Consolidation Officer, Additional Director, Consolidation of Holdings and Director, Consolidation of Holdings are speaking orders and are based on true appreciation of evidence brought on record. There is neither any jurisdictional error nor any procedural irregularity in the orders passed by the competent

authorities under the provisions of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971.

Consequently, there is no merit in the writ petition and the same is dismissed with no order as to costs.

(Rajiv Sharma), Judge

October 10, 2007.
(sck).